

PATENT

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US PAT. & TM. OFFICE

Docket No.: 65856-0051
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
David L. Wadas et al.

Application No.: 10/697,747

Confirmation No.: 8765

Filed: October 30, 2003

Art Unit: 3681

For: PREDICTION OF DESTINATION GEAR FOR
PROGRESSIVE SHIFT FEATURE

Examiner: D. Wright

REQUEST FOR REFUND

Request for Refunds – Latrice Sims
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Ms. Sims:

Applicants' attorneys are in receipt of their Monthly Statement of Deposit Account 18-0013, dated August 2005. In particular, an entry in the Statement is for posted August 25, 2005, for Serial No. 10/697,747, Docket No. 65856-0041, which was charged for fee code 1253 in the amount of \$1,020.00. A copy is enclosed as Attachment 1. This was an overcharge.

On August 22, 2005, Examiner Dirk Wright telephoned Applicants' attorneys indicating no response was received to date for Serial No. 10/697,747. The response to the Office Action dated February 23, 2005 was sent via facsimile on May 23, 2005, on the deadline date. A copy of Auto-Reply Facsimile Transmission is enclosed as Attachment 2. Examiner Dirk Wright asked us to send a copy of the previously faxed response along with the return confirmation from the United States Patent and Trademark Office, which we did. A copy is enclosed as Attachment 3. The charge appears to be with respect to the date of resubmission and not the timely original submission.

Adjustment date: 11/04/2005 EEKUBAY1
08/25/2005 DNASH1 00000002 180013 10697747
01 FC:1253 1020.00 CR

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Application No.: 11/039,704

Docket No.: 50000-0069

Applicants' attorneys request a refund in the amount of \$1,020.00 to be credited to Deposit Account 18-0013, under Order No. 65856-0051 for the overcharged amount.

Dated: September 20, 2005

Respectfully submitted,

By 

Michael B. Stewart

Registration No.: 36,018

RADER, FISHMAN & GRAUER PLLC

39533 Woodward Avenue

Suite 140

Bloomfield Hills, Michigan 48304

(248) 594-0633

Attorney for Applicant

R0311018.DOC



**United States
Patent and
Trademark Office**



Deposit Account Statement

Requested Statement Month: August 2005
 Deposit Account Number: 180013
 Name: RADER FISHMAN & GRAUER
 Attention: ACCOUNTING DEPT.
 Address: 39533 WOODWARD AVENUE
 City: BLOOMFIELD HILLS
 State: MI
 Zip: 48304
 Country: UNITED STATES OF AMERICA

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
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09/20/2005 11:58 248-594-0610

RADER, FISHMAN

PAGE 06/17

MAY-23-2005 13:03 RADER FISHMAN & GRAUER
USPTO 5/23 05 1:01 PM PAGE 1/001 F 248 594 0610 P.01/01
Auto-reply fax to 248 594 0610 COMPANY: Server

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Page

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MAY 23 2005 12:58 PM FR RADER, FISHMAN 248 594 0610 TO 817835725336 P.01

FAX TRANSMISSION	
DATE:	May 23, 2005
PTO IDENTIFIER:	Application Number (0487,347-Conf 03765) Patent Number
EXAMINER:	David L. Widen R.L.
MESSAGE TO:	UI Patent and Trademark Office
FAX NUMBER:	(703) 572-9900
FROM:	RADER, FISHMAN & GRAUER PLLC Kippaiah W. Rader
PHONE:	(248) 593-3310
Attorney Cite ID:	65056-0031
PAGES (including Cover Sheet):	9
CONTENTS:	(Attachments to Transmittal to Receiver) and Office Action (if any) Certificate of Transmittal (1 page)
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PAGE 10 * RCVD AT 5/23/2005 12:58:35 PM [Eastern Daylight Time] * SVR:USPTO-EFAX-01 * DNIS:2736500 * CSID:248 594 0610 * DURATION (mm-ss):04:22

** JOB STATUS REPORT **

AS OF MAY 2 2005 12:54 PM PAGE. 01

RADER, FISHMAN

JOB #312

	DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001	5/23	12:51P	917038729306	EC--S	02' 09"	009	OK

FAX TRANSMISSION

DATE: May 23, 2005

PTO IDENTIFIER: Application Number 10/697,747-Conf #8765
Patent Number

Inventor: David L. Wadas et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (703) 872-9306

FROM: RADER, FISHMAN & GRAUER PLLC

Kenneth W. Jarrell

PHONE: (248) 593-3310

Attorney OIL #: 65856-0051

PAGES (including Cover Sheet): 9

CONTENTS: Amendment in Response to Non-Final Office Action (7 pages)
Certificate of Transmission (1 page)

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39533 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan 48304
Telephone: (248) 594-0600 Facsimile: (248) 594-0610

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-8308, on the date shown below.
Dated: May 23, 2005 Signature: Victoria L. Wood
(Victoria L. Wood)

Docket No.: 65856-0051
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
David L. Wadas et al.

Application No.: 10/697,747

Confirmation No.: 8765

Filed: October 30, 2003

Art Unit: 3681

For: PREDICTION OF DESTINATION GEAR FOR
PROGRESSIVE SHIFT FEATURE

Examiner: D. Wright

AMENDMENT IN RESPONSE TO NON-FINAL OFFICE ACTION

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

In response to the Office Action dated February 23, 2005, please amend the above-identified U.S. patent application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks/Arguments begin on page 6 of this paper.

AMENDMENTS TO THE CLAIMS

1. (Currently Amended) A method for predicting a destination gear in a controller-assisted, manually shifted vehicular transmission system, said method comprising the steps of:

determining an expected front box gear; and

determining whether an intended shift is a compound shift, and if so, a destination gear is predicted based on a shift lever lateral position, both a partial and a full shift lever fore-aft position, and a splitter switch position.

2. (Original) The method of Claim 1, whereby the destination gear is equal to the expected front box gear when the splitter switch position is in a Low position, the shift lever fore-aft position is in one of a partial aft position and a full aft position, and the shift lever lateral position is in one of a High position and a Center position.

3. (Original) The method of Claim 1, whereby the destination gear is equal to the expected front box gear when the splitter switch position is in a Low position, the shift lever fore-aft position is in one of a partial fore position and a full fore position, and the shift lever lateral position is in 1st/Reverse position.

4. (Original) The method of Claim 1, whereby the destination gear is equal to the expected front box gear when the splitter switch position is in a Low position, the shift lever fore-aft position is not in one of a partial fore position and a full fore position, and the shift lever lateral position is in 1st/Reverse position.

5. (Original) The method of Claim 1, whereby the destination gear is equal to the expected front box gear plus one when the splitter switch position is in a High position, the shift lever fore-aft position is in one of a partial aft position and a full aft position, and the shift lever lateral position is in one of a High position and a Center position.

6. (Original) The method of Claim 1, whereby the destination gear is equal to the expected front box gear plus one when the splitter switch position is in a High position, the shift lever fore-aft position is in one of a partial fore position and a full fore position, and the shift lever lateral position is in a 1st/Reverse position.

7. (Original) The method of Claim 1, whereby the destination gear is equal to the expected front box gear minus one when the splitter switch position is in a High position and the shift lever fore-aft position is not in one of a partial fore position and a full fore position, and the shift lever lateral position is in a 1st/Reverse position.

8. (Original) The method of Claim 1, whereby the intended shift is determined to be a compound shift based on the shift lever fore-aft position and the splitter switch position.

9. (Original) The method of Claim 1, whereby the controller uses the predicted destination gear for engine control.

10. (Original) The method of Claim 9, further comprising the step of determining whether the predicted destination gear is greater than a last known gear.

11. (Original) The method of Claim 10, further comprising the step of determining whether a current gear is equal to zero when the predicted destination gear is greater than the last known gear, and if so, commanding the engine to a zero torque mode, and if not, commanding the engine to a recovery mode.

12. (Original) The method of Claim 10, further comprising the step of determining whether a downshift is allowed when the predicted destination gear is not greater than the last known gear.

13. (Original) The method of Claim 12, further comprising the step of commanding the engine to a synchronize mode when the downshift is allowed.

14. (Original) The method of Claim 13, further comprising the step of determining whether a current gear is equal to zero, and if not, commanding the engine to a recovery mode.

15. (Original) The method of Claim 14, whereby the engine is commanded to a follower mode when the recovery mode is complete.

16. (Original) The method of Claim 1, whereby the controller uses the predicted destination gear for splitter control.

17. (Currently Amended) A controller-assisted, manually shifted vehicular transmission system comprising an internal combustion engine driving an input shaft of a compound transmission having a multiple-ratio main section shifted by a shift lever manually movable in a shift pattern and a splitter auxiliary section connected in series with said main section, a splitter shift mechanism for automatically implementing splitter shifts and a controller for receiving input signals indicative of system operating conditions and for processing same according to predetermined logic rules to issue command output signals to system actuators, including said splitter shift mechanism,

wherein said controller includes logic rules for:

determining an expected front box gear; and

determining whether an intended shift is a compound shift, and if so, a destination gear is predicted based on a shift lever lateral position, both a partial and a full shift lever fore-aft position, and a splitter switch position.

18. (Original) The transmission of Claim 17, wherein the controller determines the intended shift to be a compound shift based on the shift lever fore-aft position and the splitter switch position.

19. (Original) The transmission of Claim 17, wherein the controller uses the predicted destination gear for engine control.

Application No.: 10/697,747

Docket No.: 65856-0051

20. (Original) The transmission of Claim 17, wherein the controller uses the predicted destination gear for splitter control.

Application No.: 10/697,747

Docket No.: 65856-0051

REMARKS

Applicant has carefully reviewed the Office Action mailed February 23, 2005, and thanks Examiner Wright for his detailed review of the pending claims. In response to the Office Action, Applicant has amended claims 1 and 17. By way of this amendment, no new matter has been added. Accordingly, claims 1-20 remain pending in this application. Applicant respectfully requests reconsideration of the present application in view of the above amendment and the following remarks.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by *Hughes* '171. Applicants respectfully traverse the rejection.

To anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claims 1 and 17 respectively recite a method and a control system logic for predicting a destination gear in a transmission system where "both a partial and a full shift lever fore-aft position" is used in the determination of whether an intended shift is a compound shift. In support of this limitation, the Examiner's attention is directed to paragraph [0074], 1st sentence, and paragraph [0061], 1st and 2nd sentences, to illustrate that both the partial fore position 210 and the full fore position 208 are detected prior to determining shift intent.

Hughes does not teach the controller-assisted transmission system of the present invention. Specifically, Hughes teaches detecting only a single fore-aft position of the shift lever, and not "both a partial and a full shift lever fore-aft position". In addition, the present invention accomplishes both a compound shift and a lever shift without the complexity of Hughes where force sensors 57, 58 and a plunger 82 are used to ensure that the proper gear is selected and maintained.

Application No.: 10/697,747

Docket No.: 65856-0051

Dependent claims 2-16 and 18-20 teach independently patentable subject matter, although they are also patentable by being dependent on an allowable base claim. As an example, claim 12 recites "determining whether a downshift is allowed when the predicted destination gear is not greater than the last known gear." These teachings are not taught in the prior art of record. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

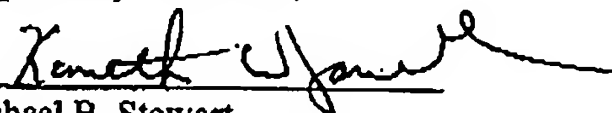
CONCLUSION

In view of the above amendment and remarks, the pending application is in condition for allowance. If, however, there are any outstanding issues that can be resolved by telephone conference, the Examiner is earnestly encouraged to telephone the undersigned representative.

It is believed that any additional fees due with respect to this paper have already been identified in any transmittal accompanying this paper. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge our Deposit Account No. 18-0013, under Order No. 65856-0051 from which the undersigned is authorized to draw.

Dated: May 23, 2005

Respectfully submitted,

By 

Michael B. Stewart

Registration No.: 36,018

Kenneth W. Jarrell

Registration No.: 52,484

RADER, FISHMAN & GRAUER PLLC

39533 Woodward Avenue

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(248) 593-3310

Attorneys for Applicant

R0292335.DOC

PTO/SB/87 (08-04)

Approved for use through 07/31/2006. OMB 0651-0031
U. S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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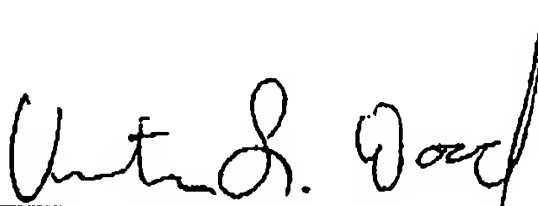
Application No. (if known): 10/697,747

Attorney Docket No.: 65856-0051

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on May 23, 2005
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Signature

Victoria L. Wood

Typed or printed name of person signing Certificate

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Amendment in Response to Non-Final Office Action (7 pages)

09/20/2005 11:58 248-594-0610

RADER, FISHMAN

PAGE 16/17

RUG-22-2005 16:06
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Page
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8/22/2005 15:58 248-594-0610 RADER, FISHMAN PAGE 01/11	
FAX TRANSMISSION	
DATE: August 22, 2005	
PTO NUMBER: Application Number 10497747-Conf. 68163 Patent Number	
Inventor: David L. Wadley et al.	
MESSAGE TO: US Patent and Trademark Office - Examiner D. Wright	
FAX NUMBER: (571) 273-8300	
FROM: RADER, FISHMAN & GRAUER PLLC Michael B. Stewart	
PHONE: (248) 594-0610	
Attorney Dia. #: 65456-0651	
PAGES (including Cover sheet): 11	
CONTENTS: Respected Wright: In follow-up to our conversation of today's date, you indicated no further was ever received in your office. This response was sent via facsimile on 8/22/05. Enclosed for your file are the following documents: Auto-Reply Facsimile Transmission on 8/22/05 from USPTO; Confirmation of Fax Transmission on 8/22/05; Amendment in Response to New-Tech Office Action 10497747 (7 pages); and Certificate of Transmission (1 page) Thank you, Stephanie Pugh (248) 594-0610 If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (248) 594-0610 and send the original transmission to us by return mail at the address below. This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or disclosure of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited. RADER, FISHMAN & GRAUER PLLC 24033 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan 48304 Telephone: (248) 694-0609 Facsimile: (248) 594-0610	

PAGE 01/11 RCVD AT 8/22/2005 3:55:58 PM [Eastern Daylight Time] * SVR:USPTO-EFXXRF-6/25 * DNIS:2736500 * CSID:248 594 0610 * DURATION (mm-ss):04-00

ATTACHMENT 3

PAGE 16/17 * RCVD AT 9/20/2005 11:55:58 AM [Eastern Daylight Time] * SVR:USPTO-EFXXRF-6/25 * DNIS:2736500 * CSID:248 594 0610 * DURATION (mm-ss):04-00

FAX TRANSMISSION**DATE:** August 22, 2005**PTO IDENTIFIER:** Application Number 10/697,747-Conf. #8765
Patent Number**Inventor:** David L. Wadas et al.**MESSAGE TO:** US Patent and Trademark Office - Examiner D. Wright
FAX NUMBER: (571) 273-8300**FROM:** RADER, FISHMAN & GRAUER PLLC
Michael B. Stewart**PHONE:** (248) 594-0633**Attorney Dkt. #:** 65856-0051**PAGES (Including Cover Sheet):** 11**CONTENTS:** Examiner Wright: In follow-up to our conversation of today's date, you indicated no response was ever received in your office. This response was sent via facsimile on 5/23/05. Enclosed for your file are the following documents:Auto-Reply Facsimile Transmission on 5/23/05 from USPTO;
Confirmation of Fax Transmission on 5/23/05;
Amendment in Response to Non-Final Office Action (7 pages); and
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Thank you, Stephanie Frash (248) 594-0645

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FAX TRANSMISSIONUS PATENT & TRADEMARK
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DATE: September 20, 2005

PTO IDENTIFIER: Application Number 10/697,747, Conf # 8765
Patent Number

Inventor: David L. Wadas et al.

MESSAGE TO: US Patent and Trademark Office - Latrice Sims

FAX NUMBER: (571) 273-6500

FROM: RADER, FISHMAN & GRAUER PLLC
Michael B. Stewart

PHONE: (248) 594-0633

Attorney Dkt. #: 65856-0051

PAGES (Including Cover Sheet): 17

CONTENTS: Request for Refund (2 pages)
Attachment 1 (Deposit Account Statement - 1 page)
Attachment 2 (Auto-Reply Facsimile Transmission & Amendment - 10 pages)
Attachment 3 (Auto-Reply Facsimile Transmission to Examiner Wright - 2 pages)
Certificate of Transmission (1 page)

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RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan 48304
Telephone: (248) 594-0600 Facsimile: (248) 594-0610

PATENT & TRADEMARK OFFICE
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Application No. (if known): 11/039,704

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Attorney Docket No.: 50000-0069

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on September 20, 2005
Date



Signature

Stephanie A. Frash

Typed or printed name of person signing Certificate

Registration Number, if applicable

(248) 594-0645

Telephone Number

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Request for Refund (2 pages)

Attachment 1 (Deposit Account Statement - 1 page)

Attachment 2 (Auto-Reply Facsimile Transmission & Amendment - 10 pages)

Attachment 3 (Auto-Reply Facsimile Transmission to Examiner Wright - 2 pages)

Certificate of Transmission (1 page)

ATTENTION ATTENTION ATTENTION

Method of Refund:

☐ **ACH/EFT**

☐ **Credit Card**

☒ **Deposit Account #** 18-00

☐ **Treasury Check**

Patent/TM/App/Serial # 10/697,747

Program Area Tech Center 3681

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- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
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